

**MINUTES OF THE
GREENSBORO BOARD OF ADJUSTMENT
AUGUST 25, 2008**

A regular meeting of the Greensboro Board of Adjustment was held on Monday, August 25, 2008 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair John Cross, Bill Strickland, Scott Brewington, Ryan Shell, Russ Parmele. Staff present were: Rawls Howard, Zoning Administrator, Loray Averett, Zoning Services Coordinator, as well as Jerry Kontos, City Attorney's Office.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES OF LAST MEETING

Mr. Parmele moved to approve the minutes of the July 28, 2008 meeting minutes as submitted, seconded by Mr. Brewington. The Board voted 5-0 in favor of the motion. (Ayes: Cross, Strickland, Brewington, Shell, Parmele. Nays: None.)

SWEARING IN OF STAFF

Staff was sworn in for their testimony in the following matters before the Board.

OLD BUSINESS

VARIANCE

- (A) **BOA-08-17: 350 MCADOO AVENUE** Lori Ann Harris requests a variance from the maximum fence height requirement. *Violation: A proposed 7 foot high fence will exceed the maximum height of 4 feet by 3 feet within 15 feet of the McAdoo Avenue and Gorrell Street rights-of-way. This case was continued from the June 23, 2008 meeting. Section 30-4-9.6(A), Present Zoning-TN1, BS-6, Cross Street-Gorrell Street. (CONTINUED)*

Lori Ann Harris, 350 McAdoo Ave., asked the Board for a 90-day continuance due to the recommendation of Sue Schwartz and staff. The continuance was requested to work out issues with the neighborhood and with Housing and Community Development. Ms. Schwartz stated to Ms. Harris that she was not a member of the Home Owners' Association, and Ms. Schwartz was investigating a text change that would not require Ms. Harris to come before the Board. The text change process will take approximately 90 days.

Mr. Parmele asked why a 90-day continuance was necessary. Ms. Harris stated that it would take 30-45 days for staff to complete a survey of fences in the neighborhood, and to put the text amendment together. Ms. Averett stated that after the text amendment is written and reviewed the amendment will need to be calendared for Planning Board approval, and would therefore require a 90-day continuance.

Mr. Brewington moved that the matter be continued for 90 days, seconded by Mr. Parmele. The Board voted to approve the motion 5-0. (Ayes: Cross, Strickland, Brewington, Shell, Parmele. Nays: None.)

- B) BOA-08-21: 3401 DOGWOOD DRIVE** Ricky Bott requests a variance from a side street setback requirement. *Violation:* An existing attached carport (which was recently constructed), encroaches 13.5 feet into a 15-foot side setback from Beverly Place. This case was continued from the July 28, 2008 meeting. Table 30-4-6-1, Present Zoning-RS-12, BS-47, Cross Street-Beverly Place. (CONTINUED)

Mr. Cross and Mr. Brewington restated their conflict of interest as approved from the last meeting, and that nothing has changed in the matter. Mr. Cross and Mr. Brewington were recused from the matter.

The applicant requests a variance for a recently constructed attached carport/garage which encroaches 13.5 feet into a 15-foot minimum side street setback adjacent to Beverly Place. This case was continued from the July 28, 2008 meeting on a one-time continuance allowance, based on only four members being available to vote.

Derek Allen, 230 N. Elm St., asked to postpone the hearing until such time that another member may be available to hear the issue.

NEW BUSINESS

VARIANCE

- A) BOA-08-23: 2323 FLEMING ROAD** Lee Boyd requests a variance from a minimum street setback. *Violation:* A proposed single family dwelling will encroach 34.4 feet into a required 100 foot special setback from the centerline of Fleming Road. Section 30-4-7.3(l)(1), Present Zoning-RS-15, BS-224, Cross Street-Old Acre Court. (CONTINUED)

Lee Boyd requests a variance from a minimum centerline street setback. A proposed single family dwelling will encroach 34.4 feet into a required 100-foot special setback from the centerline of Fleming Road. The property is located on the western side of Fleming Road south of Old Acre Court. on zoning map block sheet 224.

It is trapezoid (unique) in shape and contains approximately 21,000 square feet.

This property has recently been annexed into the City limits. The effective annexation date was June 30, 2008.

The applicant's front property line is shown to be in the middle of the Fleming Road right-of-way. Attached to this staff report is a copy of the metes and bounds deed description. The property boundaries are described in Deed Book 6282, Page 2494. The description does describe the property line as running along the center line of said road.

This property does not have a front property line setback, only a centerline setback. The road exists as ribbon pavement and DOT will maintain to the edge of ditch adjacent to the ribbon pavement. If in the future, the road is widened the applicant's front property line could change (lot would be reduced in area).

It is unlikely the centerline of this portion of Fleming will change. The current dedication width for Fleming Road is 60 feet; however, since, Fleming Road is classified as a minor thoroughfare it is possible that an eighty foot dedication will someday be required. This still is not likely to change the centerline location of the road.

After careful review by zoning, it appears that the applicant could possibly shift the proposed structure in a northeastern direction, and optimize his setbacks; thus reducing his variance request. The RS-12, Residential Single-Family District is primarily intended to accommodate moderate density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density in RS-12 will typically be 3.0 units per acre or less.

Mr. Brewington asked Mr. Howard to clarify the repositioning of the building site to minimize the encroachment into the required centerline setback. Mr. Howard stated that this will likely be similar to other cases brought to the Board due to recent annexations.

Allen Wilson, Wilson Surveyors, 402 Blandwood Ave., stated that the property is an old piece of property with an existing house that dates from the late 1950s. He stated that Mr. Boyd is trying to remove the existing house, and construction a new and improved residence while minimizing encroachments into the setback requirements and maintain the current building site. He also stated that the property is oddly shaped.

Mr. Parmele asked staff to clarify the need for a 100-foot setback. Mr. Howard stated the setback was determined for future growth. Ms. Averett stated the road has a dedication for 60-feet, and is classified as a minor thoroughfare, and a 10-foot setback from each side would be required for new development, for a total of 80-feet.

Mr. Wilson presented the Board with pictures of neighboring houses and their existing setbacks from the road. He stated that the setbacks for some existing developments are at most 50-feet.

Lee Boyd, Homeland Residential Services, 1108 Grecale St., stated that the lot was purchased about two years ago, and the County staff stated to him that there were no problems with setbacks as long as 15-feet from the front and 30-feet from the back lot lines were maintained. He also stated he did not know the property was likely to be annexed.

Mr. Cross asked why the building site was focused on the left hand side of the property. Mr. Boyd stated that the goal was to center the building on the property, but he had no opposition to moving the building site to minimize setback encroachments. He stated he desired to put a 3-bedroom, 2.5-bath residence of about 1,500 sq. ft. on the lot.

Mr. Strickland asked staff if it was possible to meet both the back and front setbacks with the current building plan. Ms. Averett stated there was not, but the building could be shifted. Mr. Howard stated that the minimized encroachment calculations had not been determined.

The Board suggested that the building plan be shifted and that it may be in the applicant's best interest to submit a new building plan that required less of a variance. Mr. Boyd stated that minimizing the encroachment would be acceptable, and requested a continuance for 30 days.

Mr. Brewington moved to continue the matter for 30 days to allow the applicant to come back with a smaller variance request, seconded by Mr. Strickland. The Board voted to approve the motion 5-0. (Ayes: Cross, Strickland, Brewington, Shell, Parmele. Nays: None.)

APPEAL OF A NOTICE OF VIOLATION

- (A) BOA-08-24: 117 SOUTH ELM STREET The N Club appeals a Notice of Violation in reference to the use of an electronic changeable copy sign. The sign has been observed functioning as an outdoor advertising sign (billboard), which is not a permitted sign in the CB zoning district. Sections 30-5-5.6 and 30-2-2.11, Present Zoning-CB, BS-1, Cross Street-East Market Street. (CONTINUED)**

Mr. Cross and Mr. Brewington disclosed an issue of conflict of interest. Mr. Cross's law firm represents the N Club, and Mr. Brewington's wife is a partner in the firm. Mr. Parmele moved to recuse Mr. Cross and Mr. Brewington from the matter, seconded by Mr. Strickland. The Board voted to approve the motion 3-0. (Ayes: Parmele, Strickland, Shell. Nays: None.)

Mr. Kontos stated that due to the insufficient number of voting members the case could not be heard by the Board. Mr. Allen asked for the automatic continuance, and the continuance was granted based on the lack of voting members.

Mr. Cross convened a 5-minute recess to allow any other voting members to arrive. No other Board members arrived for the meeting.

- B) BOA-08-21: 3401 DOGWOOD DRIVE Ricky Bott requests a variance from a side street setback requirement. Violation: An existing attached carport (which was recently constructed), encroaches 13.5 feet into a 15-foot side setback from Beverly Place. This case was continued from the July 28, 2008 meeting. Table 30-4-6-1, Present Zoning-RS-12, BS-47, Cross Street-Beverly Place. (CONTINUED)**

Mr. Allen acknowledged Mr. Bott's neighbors that showed up in support for the request, and have signed affirmation to that effect. Mr. Allen also stated that there was a request to allow shingling of the already constructed building to protect the investment that has already been made.

The item was continued due to an insufficient number of voting members.

OTHER BUSINESS:

Mr. Howard stated that a final markup of the Rules and Procedures compiled by Mr. Kuntos has been delivered to the Board for any final suggestions.

Mr. Shell asked how long it would take to fill the empty alternate Board member positions.

Mr. Howard stated that the filling of positions is at the Council's discretion.

Mr. Brewington moved to adjourn the meeting, seconded by Mr. Parmele. The Board voted to approve the motion 5-0. (Ayes: Cross, Parmele, Shell, Brewington, Strickland. Nays: None.)

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There being no further business before the Board, the meeting adjourned at 2:55 p.m.

Respectfully submitted,

John Cross, Chairman
Greensboro Board of Adjustment

JC/jd